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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

APR 1974

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 30th March, 1974/Chaitra 9, 1896 (Saka)

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) REGULATION, 1974

NO. 1 OF 1974

Promulgated by the President in the Twenty-fifth Year of the Republic of India.

A Regulation to amend the Code of Criminal Procedure, 1973, in its application to certain Union territories.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

Short title, extent and commencement.

1. (*1*) This Regulation may be called the Code of Criminal Procedure (Amendment) Regulation, 1974.

(*2*) It extends to the Union territories of Andaman and Nicobar Islands, Dadra and Nagar Haveli, and Lakshadweep.

(*3*) It shall come into force at once.

Amendment of the Code of Criminal Procedure, 1973.

2 of 1974.

2. The Code of Criminal Procedure, 1973 (hereafter in this Regulation referred to as the Code), shall, in its application to the Union territories to which it extends, stand amended to the extent specified in this Regulation.

Insertion of new section 3A.

3. In the Code, as it applies to the Union territory of Andaman and Nicobar Islands, after section 3, the following section shall be inserted, namely:—

Special provision relating to Andaman and Nicobar Islands.

"3A. (1) References in this Code to—

(a) the Chief Judicial Magistrate shall be construed as references to the District Magistrate or, where the State Government so directs, also to the Additional District Magistrate;

(b) a Magistrate or Magistrate of the first class or of the second class or Judicial Magistrate of the first class or of the second class, shall be construed as references to such Executive Magistrate as the State Government may, by notification in the Official Gazette, specify.

(2) The State Government may, if it is of opinion that adequate number of persons are available for appointment as Judicial Magistrates, by notification in the Official Gazette, declare that the provisions of this section shall, on and from such day as may be specified in the notification, cease to be in force and different dates may be specified for different islands.

(3) On the cesser of operation of the provisions of this section, every inquiry or trial pending, immediately before such cesser, before the District Magistrate or Additional District Magistrate or any Executive Magistrate, as the case may be, shall stand transferred, and shall be dealt with, from the stage which was reached before such cesser, by such Judicial Magistrate as the State Government may specify in this behalf.".

Amendment of section 11.

4. In the Code, as it applies to the Union territories to which this Regulation extends, in sub-section (3) of section 11, for the words "any member of the Judicial Service of the State, functioning as a Judge in a Civil Court", the words "any person discharging the functions of a Civil Court" shall be substituted.

Amendment of sections 164, 167, 382 and 383.

5. In the Code, as it applies to the Union territory of Andaman and Nicobar Islands and the Union territory of Lakshadweep,—

(a) after sub-section (1) of section 164, the following sub-section shall be inserted, namely:—

"(1A) Where, in any island, there is no Judicial Magistrate for the time being, and the State Government is of opinion that it is necessary and expedient so to do, that Government may, after consulting the High Court, specially empower any Executive Magistrate (not being a police officer), to exercise the powers conferred by sub-section (1) on a Judicial Magistrate, and thereupon references in section 164 to a Judicial Magistrate shall be construed as references to the Executive Magistrate so empowered.";

(b) in section 167,—

(i) in sub-section (1), after the words "nearest Judicial Magistrate", the words "or, if there is no Judicial Magistrate in an island, to an Executive Magistrate functioning in that island" shall be inserted;

(ii) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Where a copy of the entries in the diary is transmitted to an Executive Magistrate, references in section 167 to a Magistrate shall be construed as references to such Executive Magistrate.";

(*iii*) to sub-section (*3*), the following proviso shall be added, namely:—

"Provided that no Executive Magistrate, other than the District Magistrate or Sub-Divisional Magistrate, shall, unless he is specially empowered in this behalf by the State Government, authorise detention in the custody of the police.";

(*iv*) to sub-section (*4*), the following proviso shall be added, namely:—

"Provided that, where such order is made by an Executive Magistrate, the Magistrate making the order shall forward a copy of the order, with his reasons for making it, to the Executive Magistrate to whom he is immediately subordinate.";

(*c*) section 382 shall be re-numbered as sub-section (*1*) of that section, and to sub-section (*1*) as so re-numbered, the following provisos and *Explanation* shall be added, namely:—

'Provided that, where it is not practicable to file the petition of appeal to the proper Appellate Court, the petition of appeal may be presented to the Administrator or to an Executive Magistrate, not below the rank of a Sub-Divisional Magistrate, who shall forward the same to the proper Appellate Court; and, when any such appeal is presented to the Administrator or to an Executive Magistrate, he shall record thereon the date of its presentation and, if he is satisfied that, by reason of the weather, transport or other difficulties, it is not possible for the appellant to obtain, from the proper Appellate Court, orders for the suspension of sentence or for bail, he may, in respect of such appeal, or an appeal forwarded to him under section 383, exercise all or any of the powers of the proper Appellate Court under sub-section (*1*) of section 389 with regard to suspension of sentence or release of a convicted person on bail:

Provided further that the order so made by the Administrator or the Executive Magistrate shall have effect until it is reversed or modified by the proper Appellate Court.

Explanation.—For the purposes of the provisos to this section, and section 383, "Administrator", in relation to a Union territory, means the Administrator appointed by the President under article 239 of the Constitution, for that Union territory.';

(*d*) in section 382, after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) For the purposes of computation of the period of limitation, and for all other purposes, an appeal presented to an Administrator or an Executive Magistrate under sub-section (*1*) or, as the case may be, under section 383, shall be deemed to be an appeal presented to the proper Appellate Court.";

(*e*) in section 383, the following words shall be inserted at the end, namely:—

"or if, by reason of the weather, transport or other difficulties, it is not possible to forward them to the proper Appellate Court, they shall be forwarded to the Administrator or an Executive Magistrate, not below the rank of a Sub-Divisional Magistrate, who shall, on receipt of such petition of appeal and copies, record thereon the date of receipt thereof and thereafter forward the same to the proper Appellate Court.".

Amendment of section 478.

6. In the Code, as it applies to the Union territories to which this Regulation extends, in section 478, the words "If the State Legislature by a resolution so requiries," shall be omitted.

V. V. GIRI,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

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